

CONFIDENTIAL**ATTORNEY WORK PRODUCT****THE FIRM OF
HUESCHEN AND SAGE**

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CONFIDENTIAL**FAX TRANSMISSION****CONFIDENTIALITY NOTICE**

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DATE: August 29, 2002

TO: PCT LEGAL DIVISION

FAX NO.: 703-308-6459

FROM: HUESCHEN & SAGE

FAX NO.: 616-382-2030

RE: Applicant : Jean Pierre GIRAUD & Roger NOBILET
 Serial No. : 09/869,768
 Filed : June 29, 2001
 Title : Dispenser of Objects
 Art Unit : 3651
 Examiner : Deborah D. WILLIAMS, Esq.

NO. OF PAGES INCLUDING COVER SHEET: 11

Herewith please find a Petition for Reconsideration and Withdrawal of the referenced Abandonment with attachments.

PHONE: 616-382-0030

FAX: 616-382-2030

pat_marks@ameritech.net

29 AUG 2002

FAX NO. 703-308-6459

I hereby certify that this correspondence is being transmitted to the **United States Patent and Trademark Office, PCT Legal Office**, at number: 703-308-6459 on

August 29, 2002
HUESCHEN AND SAGE

Deborah D. Williams
Dated: 8/29/02

PF96PCT

* * * * *

Applicant : Jean Pierre GIRAUD & Roger NOBILET

Serial No. **09/869,768**

05/29/2002 MALI11 00000076 09869768
02 FC:154 130.00 DP

Filed : June 29, 2001

Title : Dispenser of Objects

Adjustment date: 09/18/2002 LLAMBRA
05/29/2002 MALI11 00000076 09869768
02 FC:154 -130.00 DP

Art Unit : 3651

09/18/2002 LLAMBRA 00000075 09869768
01 FC:122 130.00 DP

Examiner : Deborah D. WILLIAMS, Esq.

* * * * *

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 CFR § 1.181

Sir:

Responsive to the Notice of Abandonment dated July 26, 2002 (copy attached), and in further Response to the 23 AUG 2002 Decision received from the PCT Legal Division, the applicants Petition, yet again, for Withdrawal of the Notice of Abandonment.

* * * * *

BACKGROUND

On 30 December 1999, applicants filed international application PCT/FR99/03317, which claimed priority of an earlier French application filed 31 December 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 13 July 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 21 July 2000, prior to the expiration of nineteen months from the

priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 July 2001 (30 June 2001 was a Saturday).

On 29 June 2001, applicants filed national stage papers in the United States Designated/Elected Office (CO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 USC 371(c)(1).

On 07 September 2001, the DO/EO/US state that a Notification of Missing Requirements was mailed to applicants which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed. A Form PCT/DO/EO/905 rubber stamped September 7, 2001 was supplied with the 23 August 2002 Decision. Applicant avers that no such communication was received. As evidence of this fact, applicants supply herewith a copy of the appropriate internal docket, November 2001, for the month in which the applicants would have been obligated to respond to such communication. This information is provided in accord with MPEP § 711.03(c), part II. The application would have been identified on the docket by internal codes CR-1 or PF 96 PCT. No response was docketed because no Notice was received.

On December 18, 2001, applicants requested the status of the instant application. A copy of the status request and the cancelled return receipt are attached hereto. This request provides further evidence that no Notice was received. Record of this applicant communication is mysteriously absent on the PAIR file contents history. USPTO acknowledgement of this filing is solicited.

On 06 February 2002, the DO/EO/US mailed an **ORIGINAL** Notification of Missing Requirements under 35 USC 371 (Form PCT/DO/EO/905) without any

reference to a previous Notice. The applicants question the legitimacy of the purported September 7, 2001 mailing in view of this **ORIGINAL** notification, a copy of which is attached hereto.

On 24 May 2002, applicants filed a response to the Notification of Missing Requirements mailed 06 February 2002, fulfilling all statutory requirements.

On 26 July 2002, the DO/EO/US mailed a Notice of Abandonment, which stated that the present application is abandoned for failure to timely respond to the "Notice to File Missing Parts (Notice) mailed on 02/07/2002", further establishing the legitimacy of the February mailing and calling into question the September 7, 2001 mailing referenced by the PCT Legal Division in the 23 August 2002 Decision.

On 09 August 2002, applicants filed a Petition under 37 CFR 1.181. The petition states that a proper response to the 06 February 2002 Notification of Missing Requirements was filed on 24 May 2002.

* * * * *

DISCUSSION

The applicants respectfully request withdrawal of the pending or soon to be pending Abandonment. The applicants' prosecution has been sufficiently inconvenienced due to USPTO error. The applicants have, yet again, fulfilled the latest suggested requirement of the PCT Legal Division. The applicants have restated the obvious. The purported September 7, 2001 Notice was not received by the applicants' representatives, if it was even sent. The USPTO record is very ambiguous. Applicants make note of Deleted Transactions and Pre-Exam Office Actions being withdrawn, all of which occur completely out of sequence. (Copy of August 28, 2002 PAIR filed contents history enclosed.)

The applicants' reliance on the only received **ORIGINAL** Notice of February 6, 2002 is completely justified. The applicants' record is clear, and additional information in support thereof is supplied herewith. The applicants trust that there will be no further interference with the instant prosecution.

* * * * *

Accordingly, reconsideration and withdrawal of the instant erroneous Notice of Abandonment and commencement of the examination of this application are all hereby respectfully solicited. It should be apparent that the undersigned attorney has made an earnest effort to resolve this USPTO error. If he can be of assistance to the Examiner in the elimination of any possibly-outstanding insignificant impediment to immediate examination, the Examiner is respectfully invited to call him at his below-listed number for such purpose.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By: 
G. PATRICK SAGE

Dated: August 29, 2002
Customer No.: 25,666
500 Columbia Plaza
350 East Michigan Ave.
Kalamazoo, MI 49007-3856
(616) 382-0030

Enclosures: Copy of November 2001 docket sheet,
Copy of December 18, 2001 status request with cancelled return receipt,
Copy of original 06 February 2002 Notice of Missing Requirements,
Copy of August 28, 2002 PAIR file contents history

Docket for NOVEMBER 2001

<u>US</u>			RESPONSE
1	PF 57 PCT US		RESPONSE
1	AZON 3 A		RESPONSE
13	ADIR 340		CHECK STATUS
14	HUISKAMP 1		ON REISSUE OF NOTICE OF ALLOWANCE
16	PF 92 PCT US		FILE MISSING PARTS
20	ADIR 354		ISSUE FEE
20	ADIR 333		ISSUE FEE
26	PF 82 PCT US		RESPONSE
12/1	ADIR 288 DIV 1		ISSUE FEE
12/7	HUISKAMP 1		ISSUE FEE

CARRYOVERS

AUG 7	ADIR 341	RESPONSE (NOV)
AUG 15	ADIR 343	RESPONSE (NOV)
OCT 5	ADIR 356	RESPONSE (JAN)
OCT 17	PF 77 PCT SEQ	RESPONSE (JAN ?)
OCT 25	ADIR 351	RESPONSE (JAN)

FOREIGN

12	KSECO 38 ARGENTINA	REQUEST EXAM
26	MERZ 27 PCT CIP	RESPONSE TO WRITTEN OPINION
12/1	MERZ 32 GERMANY	RESPONSE *
12/2	MERZ 27 PCT CZECH	RESPONSE TO AMENDMENT
12/2	MERZ 26 X PCT ISRAEL	RESPONSE
12/7	MERZ 32 PCT	NATIONAL PHASE FILING

CARRYOVER

TRADEMARK

6	PF FTM 233	STATUS CHECK
30	MERZ FTM 26	GIVE TO GPS

PF 96 PCT US/lw

* * * * *

Applicant : Jean Pierre Giraude, et al.
Serial No. : 09/869,768 (unofficial)
Filed : June 29, 2001
Title : Dispenser of objects

* * * * *

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

STATUS LETTER

Sir:

The above-identified application was filed on June 29, 2001
However, to date we have not yet received the Official Filing Receipt.
Clarification of the status of the above-identified application is requested.

Respectfully submitted,

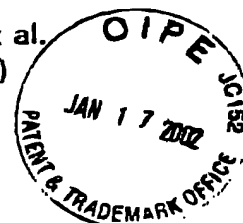
THE FIRM OF HUESCHEN AND SAGE


G. PATRICK SAGE, Attorney #37,710

Dated: December 18, 2001
Customer No. 25,666
500 Columbia Plaza
350 East Michigan Ave.
Kalamazoo, MI 49007
(616) 382-0030

Enclosure: Return Postal Card Receipt

Applicant : Jean Pierre Giraude, et al.
Serial No. : 09/869,768 (unofficial)
Filed : June 29, 2001
Title : Dispenser of objects



* * * * *

The PTO Stamp when affixed hereon will acknowledge receipt by certificate of Mailing filing procedure of Status Letter concerning Missing Official Filing Receipt

Dated: December 18, 2001
PF 96 PCTUS/lw



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Law PL-1
 United States Patent and Trademark Office
 Washington, D.C. 20230
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/869,768	Jean Pierre Giraud	CRIPCT/lw

25666
 THE FIRM OF HUESCHEN AND SAGE
 500 COLUMBIA PLAZA
 350 EAST MICHIGAN AVENUE
 KALAMAZOO, MI 49007

INTERNATIONAL APPLICATION NO.	
PCT/FR99/03317	
LA. FILING DATE	PRIORITY DATE
12/30/1999	12/31/1998

CONFIRMATION NO. 8743
 371 FORMALITIES LETTER

 OC000000007433821

Date Mailed: 02/06/2002

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fees
- Priority Document
- Copy of IPE Report
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report
- Preliminary Amendments

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- \$130 Surcharge for providing the oath or declaration later than the appropriate 30 months months from the priority date (37 CFR 1.492(e)) is required.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

SUMMARY OF FEES DUE:

• Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Late oath or declaration Surcharge.

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

A copy of this notice MUST be returned with the response.

DEBORAH D WILLIAMS

Telephone: (703) 305-3744

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
09/869,768	PCT/FR99/03317	CRIPCT/lw

FORM PCT/DO/EO/905 (371 Formalities Notice)

FYI

Search Results for application number: 09/869,

Application Filing Date:		Class / Sub-Class:	-/-
Issue Date of Patent:		Location:	PCT LEGAL DEPARTMENT - CP2
Examiner Name:	WILLIAMS, DEBORAH D	Status:	Abandoned -- Incomplete Application (Pre-examination)
Group Art Unit:	3651	Attorney Docket Number:	CR1PCT/lw
Earliest Publication No:		Patent Number:	
Earliest Publication Date:		Customer Number:	25666
Confirmation Number:	8743		

Foreign Priority

Continuity Data

File Contents History

Number	Date	Contents Description
23	08-23-2002	Petition Decision - Dismissed
22	08-09-2002	Petition Entered
21	07-26-2002	Abandonment -- During Preexam Processing
20	02-06-2002	Notice of DO/EO Missing Requirements Mailed
19	06-29-2001	A payment by the applicant to cover the cost of basic filing, claims, issue fees, etc.
18	06-29-2001	Preliminary Amendments
17	06-29-2001	Copy of the International Preliminary Examination Report
16	06-29-2001	Copy of references cited in International Search Report
15	06-29-2001	A graphic representation depicting an invention in detail by means of one or more suitable views.
14	06-29-2001	Copy of the International Application
13	06-29-2001	A payment by the applicant to cover the cost of basic filing, claims, issue fees, etc.
12	06-29-2001	Copy of the International Search Report
11	02-07-2002	Pre-Exam Office Action Withdrawn
10	09-07-2001	Notice of DO/EO Missing Requirements Mailed
9.9	09-17-2001	Delete Transaction
8.9	09-17-2001	Delete Transaction
7	08-09-2001	371 Application Preexamination Docketing
6	08-09-2001	371 Application Preexamination Docketing
5	08-09-2001	371 Application Preexamination Docketing
4	07-23-2001	371 Application Preexamination Docketing
3	06-29-2001	Receipt of 371 Request
2	07-23-2001	Correspondence Address Change
1	06-29-2001	Initial Exam Team nn